UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,220	11/07/2001	Jason K. Trotter	ITWO:0016	5660

7590 11/14/2006

Tait R. Swanson
Fletcher, Yoder & Van Someren
P.O. Box 692289
Houston, TX 77269-2289

EXAMINER	
FERGUSON, MICHAEL P	
ART UNIT	**PAPER NUMBER**
3679	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/066,220	TROTTER ET AL.	
	Examiner	Art Unit	
	Michael P. Ferguson	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *75,78,79,81-99 and 101-113* is/are pending in the application.

4a) Of the above claim(s) *83-98,101,104 and 106-109* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *75,78,79,81,82,99,102,103,105 and 110-113* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 November 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 83-98,101,104 and 106-109 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 30, 2003.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 99 and 110-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaines et al. (US 4,189,249).

As to claim 99, Gaines et al. disclose a system, comprising:

a linkage **20** having a uniform socket geometry along the entire length of the linkage;

a first joint **10** coupled to the uniform socket geometry at a first end of the linkage; and

a second joint **16** coupled to the uniform socket geometry at a second end of the linkage opposite the first end, wherein the first and second joints are configured to mate integrally with first and second mating joints, respectively,

wherein the first joint comprises a ball joint **12** and the second joint comprises a metallic non-rotatable joint **16** (housing **16** does not rotate; Figures 1 and 2).

Gaines et al. fail to disclose a system wherein the ball joint is made of plastic.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a system as disclosed by Gaines et al. wherein the ball joint is made of plastic as such material is a well-known, widely used and commercially available material within the art.

As to claim 110, Gaines et al. disclose a system wherein the metallic non-rotatable joint **16** is a polygonal receptacle joint (ball joint **17,19** has a polygonal shape; Figure 1).

As to claim 111, Gaines et al. disclose a system wherein the polygonal joint is a square receptacle joint (ball joint **17,19** has a square shape; Figure 1).

As to claim 112, Gaines et al. disclose a system wherein the metallic non-rotatable joint **16** is a circular receptacle joint (the cavity of joint **16** has a circular shaped interior surface; Figure 1).

As to claim 113, Gaines et al. disclose a system wherein the metallic non-rotatable joint **16** is a hook-shaped joint (the cavity of joint **16** has a hook-shaped interior surface; Figure 1).

4. Claims 75,78,79,81,82,102,103,105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaines et al. in view of Beach et al. (US 3,423,104).

As to claims 75 and 81, Gaines et al. disclose a system, comprising:

an integral automotive linkage **20** configured to mount within an automobile to link two or more elements integrally together in an assembly, comprising:

a hollow elongated member **20** having a constant cross-section along the entire length of the hollow elongated member, wherein the constant cross-section comprises a circular interior defining first and second sockets at respective first and second opposite ends of the hollow elongated member;

a first joint member **10** coupled to the first socket, wherein the first joint member comprises an attachment portion having a circular perimeter mated with the circular interior of the first socket; and

a second joint member **16,17,19** coupled to the second socket, wherein the second joint member comprises another attachment portion having another perimeter mated with the multi-sided interior of the second socket,

wherein the first joint member **10** comprises a ball joint **12** and the second joint member **16,17,19** comprises a female joint **16** (the cavity of female joint **16** receiving ball joint **17,19**; Figures 1 and 2).

Gaines et al. fail to disclose a system wherein the constant cross-section comprises a multi-sided interior, wherein the multi-sided interior is a square.

Beach et al. teach a system comprising a hollow elongated member **10** having a constant cross-section along the entire length of the hollow elongated member, wherein

the constant cross-section comprises a multi-sided interior defining first and second sockets, wherein the multi-sided interior is a square; the multi-sided interior enabling first and second joint members **12** to be more securely mounted within the first and second sockets, the square preventing any relative rotation or slippage between the joint members and the hollow member (Figures 2 and 5). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a system as disclosed by Gaines et al. to have a square interior as taught by Beach et al. in order to enable first and second joint members to be more securely mounted within the first and second sockets, the square preventing any relative rotation or slippage between the joint members and the hollow member.

As to claim 78, Gaines et al. disclose a system wherein the first and second joint members **10,16** comprise the same attachment portion (Figures 1 and 2).

As to claim 79, Gaines et al. disclose a system wherein the first and second joint members **10,16** are selected from a plurality of different joint members having the same attachment portion (Figures 1 and 2).

As to claim 82, Gaines et al. disclose a system wherein the constant cross-section is a uniform geometry along the entire length of the hollow elongated member **20** (Figures 1 and 2).

Applicant is reminded that **process limitations are given little patentable weight in product claims** since the patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on

its method of production. " In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

As to claim 102, Gaines et al. disclose a system wherein the female joint **16,17,19** is a polygonal receptacle joint (ball joint **17,19** has a polygonal shape; Figure 1).

As to claim 103, wherein the female joint **16,17,19** is a circular receptacle joint (the cavity of joint **16** has a circular shaped interior surface; Figure 1).

As to claim 105, Gaines et al. fail to disclose a system wherein the ball joint is made of plastic.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a system as disclosed by Gaines et al. wherein the ball joint is made of plastic as such material is a well-known, widely used and commercially available material within the art.

Response to Arguments

5. Applicant's arguments filed August 17, 2006 have been fully considered but they are not persuasive.

As to claim 75, Attorney argues that:

Gaines et al. do not disclose a system wherein the first joint member comprises a *ball joint* and the second joint member comprises a *female joint.*

Examiner disagrees. As to claim 75, Gaines et al. disclose a system wherein the first joint member **10** comprises a ball joint **12** and the second joint member **16,17,19** comprises a female joint **16** (the cavity of female joint **16** receiving ball joint **17,19**; Figures 1 and 2).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF
11/08/06

Daniel P Stodola

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600